



**6560-50-P**

## **ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 1, 7, 24, 45, 241, 310, and 761**

**[FRL 9936-38-OSWER]**

### **Name Change from the Office of Solid Waste and Emergency Response (OSWER) to the Office of Land and Emergency Management (OLEM)**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA or the Agency) is issuing this final rule to change the name of the Office of Solid Waste and Emergency Response (OSWER) to the Office of Land and Emergency Management (OLEM). This action is being taken to more accurately reflect the nature of the work that this office does to protect human health and the environment. In addition, technical corrections are made to more accurately state the laws implemented previously by OSWER (now OLEM), and to reflect prior organizational changes.

**DATES:** This rule is effective on **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**FOR FURTHER INFORMATION CONTACT:** Patricia Derkasch, EPA, Office of Land and Emergency Management (OLEM), Office of Program Management (OPM), Mail Code: 5103T; telephone 202.566.2949; e-mail address [derkasch.patricia@epa.gov](mailto:derkasch.patricia@epa.gov); or Gerain Cogliano, EPA, Office of Land and Emergency Management (OLEM), Office of Program Management (OPM), Mail Code: 5103T; telephone 202.566.1929; e-mail address [cogliano.gerain@epa.gov](mailto:cogliano.gerain@epa.gov).

### **SUPPLEMENTARY INFORMATION:**

#### **I. General Information**

*A. Does this Action Apply to Me?*

This action provides notice directed to the public in general and has particular applicability to anyone who wants to communicate with the new Office of Land and Emergency Management, or to submit information to the Office. Since this action predominantly affects the internal organization of the EPA, the Agency has not attempted to describe all the specific entities that may be interested in this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

*B. How Can I Get Additional Information, Including Copies Of This Document or Other Related Information?*

To obtain electronic copies of this document and other related information that are available electronically, please visit [www.epa.gov/olem/](http://www.epa.gov/olem/), which should redirect to the new OLEM homepage.

## **II. Background**

*A. What Action Is the Agency Taking?*

This action changes the organizational name of an EPA office as it appears in various parts of the Code of Federal Regulations to more accurately reflect the current functions of that office. The notice changes the name of the Office of Solid Waste and Emergency Response (OSWER) to the Office of Land and Emergency Management (OLEM).

In addition, this action amends 40 CFR 1.47 to provide a more complete list of the various land protection and pollution emergency laws that fall under the Office's authority, including the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), as amended by the Superfund Amendments and Reauthorization Act of 1986

(SARA); the Emergency Planning & Community Right-to-Know Act of 1986 (EPCRA); the Oil Pollution Act (OPA); the Resource Conservation and Recovery Act (RCRA); section 311 of the Clean Water Act; and the Mercury-Containing and Rechargeable Battery Management Act. This listing merely restates the existing responsibilities of the Office, and does not add to or subtract from those responsibilities.

Two sentences are appended to 40 CFR 1.47 to clarify that for the purposes of 42 U.S.C. 6911(a) and 6911a, the functions of the Office of Solid Waste are carried out by OLEM, and the functions and duties of the Assistant Administrator of the Office of Solid Waste are carried out by the Assistant Administrator for the Office of Land and Emergency Management.

Finally, this action deletes the descriptions of sub-offices within the Office found at 40 CFR 1.47(a) through (d). The text in the opening paragraph of 40 CFR 1.47 provides a full explanation of the role played by the Office and the additional language in the subsections is unnecessary. In addition, some of the descriptions in the subsections are out of date. None of the changes described above affect the rights or obligations of third parties.

#### *B. What Is the Agency's Authority for Taking This Action?*

The EPA is issuing this document under its general rulemaking authority, Reorganization Plan No. 3 of 1970 (5 U.S.C. app.). Section 553 of the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(3)(A), provides that “rules of agency organization, procedure, or practice” are exempt from notice and comment requirements, and the 30-day delay in effectiveness.

Because the exemption in 5 U.S.C. 553(a)(2) applies to this action, the EPA is making this rule immediately effective. Delaying its effectiveness by 30 days would serve no purpose and could, in fact, create a short period of public confusion. Because the rule is effective immediately, this action also is final for the purposes of judicial review under RCRA section

7006(a), 42 USC 6976(a).

### **III. Do Any of the Statutory and Executive Order Reviews Apply to This Action?**

This final rule implements a name change to one of the EPA's offices and does not otherwise impose or change any requirements. This action is not a "significant regulatory action" and is therefore not subject to OMB review under Executive Order 12866, entitled "Regulatory Planning and Review" (58 FR 51735, October 4, 1993). Because this action is not subject to notice and comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) or Sections 202 and 205 of the Unfunded Mandates Reform Act of 1999 (UMRA) (Pub. L. 104-4). In addition, this action does not significantly or uniquely affect small governments. This action does not create new binding legal requirements that substantially and directly affect Tribes under Executive Order 13175 (65 FR 67249, November 9, 2000). This action does not have significant Federalism implications under Executive Order 13132 (64 FR 43255, August 10, 1999). Because this final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, nor does it require any special considerations under Executive Order 12898, entitled "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations" (59 FR 7629, February 16, 1994). This action does not involve technical standards; thus, the requirements of Section 12(d) of the National Technology Transfer and Advancement Act of

1995 (15 U.S.C. 272 note) do not apply.

The Congressional Review Act (CRA), 5 U.S.C. 801 *et seq.*, generally provides that before certain actions may take effect, the agency promulgating the action must submit a report, which includes a copy of the action, to each House of the Congress and to the Comptroller General of the United States. This final action is exempt from the CRA because it is a rule relating to agency management or personnel and a rule of agency organization, procedure or practice that does not substantially affect the rights or obligations of non-agency parties.

## **List of Subjects**

### **40 CFR Part 1**

Environmental protection, Administrative practice and procedure, Intergovernmental relations, Organization and functions.

### **40 CFR Part 7**

Environmental protection, Administrative practice and procedure, Organization and functions, Waste treatment and disposal.

### **40 CFR Part 24**

Environmental protection, Administrative practice and procedure, Organization and functions.

### **40 CFR Part 45**

Environmental protection, Education, Waste treatment and disposal.

### **40 CFR Part 241**

Environmental protection, Air pollution control, Reporting and recordkeeping requirements, Waste treatment and disposal.

40 CFR Part 310

Environmental protection, Administrative practice and procedure, Intergovernmental relations, Waste treatment and disposal.

40 CFR Part 761

Environmental protection, Polychlorinated biphenyls (PCBs), Reporting and recordkeeping requirements, Waste treatment and disposal.

Dated: November 25, 2015.

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Gina McCarthy,  
Administrator.

For the reasons set forth in the preamble, title 40 of the Code of Federal Regulations is amended as follows:

## **PART 1—STATEMENT OF ORGANIZATION AND GENERAL INFORMATION**

1. The authority citation for part 1 continues to read as follows:

Authority: 5 U.S.C. 552.

2. Revise § 1.47 to read as follows:

### **§ 1.47 Office of Land and Emergency Management.**

The Office of Land and Emergency Management (OLEM), also referred to as the Office of Solid Waste, or the Office of Solid Waste and Emergency Response, under the supervision of the Assistant Administrator for Land and Emergency Management, also referred to as the Assistant Administrator of the Office of Solid Waste, provides Agencywide policy, guidance, and direction for the Agency's solid and hazardous wastes and emergency response programs. This Office has primary responsibility for implementing the Resource Conservation and Recovery Act (RCRA); the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA—"Superfund"), as amended by the Superfund Amendments and Reauthorization Act (SARA); the Emergency Planning and Community Right-to-Know Act; the Oil Pollution Act; Clean Water Act section 311; and the Mercury-Containing and Rechargeable Battery Management Act; among other laws. In addition to managing those programs, the Assistant Administrator serves as principal adviser to the Administrator in matters pertaining to them. The Assistant Administrator's responsibilities include: Program policy development and evaluation; development of appropriate hazardous waste standards and regulations; ensuring compliance with applicable laws and regulations; program policy guidance and overview, technical support, and evaluation of Regional solid and hazardous wastes and emergency

response activities; development of programs for technical, programmatic, and compliance assistance to States and local governments; development of guidelines and standards for the land disposal of hazardous wastes; analyses of the recovery of useful energy from solid waste; development and implementation of a program to respond to uncontrolled hazardous waste sites and spills (including oil spills); long-term strategic planning and special studies; economic and long-term environmental analyses; economic impact assessment of regulations under RCRA, CERCLA, and other relevant statutes; analyses of alternative technologies and trends; and cost-benefit analyses and development of OLEM environmental criteria. For purposes of 42 U.S.C. 6911(a), OLEM carries out the functions of the Office of Solid Waste. For purposes of 42 U.S.C. 6911a, the functions and duties of the Assistant Administrator of the Office of Solid Waste are carried out by the Assistant Administrator for the Office of Land and Emergency Management.

**PART 7—NONDISCRIMINATION IN PROGRAMS OR ACTIVITIES RECEIVING  
FEDERAL ASSISTANCE FROM THE ENVIRONMENTAL PROTECTION AGENCY**

3. The authority citation for part 7 continues to read as follows:

Authority: 42 U.S.C. 2000d to 2000d-7 and 6101 *et seq.*; 29 U.S.C. 794; 33 U.S.C. 1251nt.

4. Amend Appendix A to Part 7—Types of EPA Assistance as Listed in the “Catalog of Federal

Domestic Assistance” by revising entry “20” to read as follows:

**Appendix A to Part 7—Types of EPA Assistance as Listed in the “Catalog of Federal  
Domestic Assistance”**

\* \* \* \* \*

20. Assistance provided by the Office of Land and Emergency Management under the Comprehensive Environmental Responses, Compensation and Liability Act of 1980; Pub. L. 96-



510, section 3012, 42 U.S.C. 9601, *et seq.* (OLEM—number not to be assigned since Office of Management and Budget does not catalog one-year programs.)

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## **PART 24—RULES GOVERNING ISSUANCE OF AND ADMINISTRATIVE HEARINGS ON INTERIM STATUS CORRECTIVE ACTION ORDERS**

5. The authority citation for part 24 continues to read as follows:

Authority: 42 U.S.C. sections 6912, 6928, and 6991b.

6. Amend § 24.02 by revising paragraph (b) to read as follows:

### **§ 24.02 Issuance of initial orders; definition of final orders and orders on consent.**

\* \* \* \* \*

(b) The initial administrative order shall be executed by an authorized official of EPA (petitioner), other than the Regional Administrator or the Assistant Administrator for the Office of Land and Emergency Management. For orders issued by EPA Headquarters, rather than by a Regional office, all references in these procedures to the Regional Administrator shall be understood to be to the Assistant Administrator for Land and Emergency Management or his delegatee.

\* \* \* \* \*

## **PART 45—TRAINING ASSISTANCE**

7. The authority citation for part 45 continues to read as follows:

Authority: Sec. 103 of the Clean Air Act, as amended (42 U.S.C. 7403), secs. 104(g), 109, and 111 of the Clean Water Act, as amended (33 U.S.C. 1254(g), 1259, and 1261), secs. 7007 and 8001 of the Solid Waste Disposal Act, as amended (42 U.S.C. 6977 and 6981); sec. 1442 of the Safe Drinking Water Act, as amended (42 U.S.C. 300j-1). 2 CFR 200.

8. Amend the table in appendix A to part 45 by revising the last entry to read as follows:

**Appendix A to Part 45—Environmental Protection Agency Training Programs**

	Administering office	
	Headquarters	Regional
* * * * *		
Office of Land and Emergency Management: Hazardous Waste Training	X	

**PART 241—SOLID WASTES USED AS FUELS OR INGREDIENTS IN COMBUSTION UNITS**

9. The authority citation for part 241 continues to read as follows:

Authority: 42 U.S.C. 6903, 6912, 7429.

10. Amend § 241.3 by revising paragraphs (c) introductory text, (c)(1) introductory text, (c)(2) introductory text, (c)(2)(ii), (c)(2)(iii), and (c)(2)(iv) to read as follows:

**§ 241.3 Standards and procedures for identification of non-hazardous secondary materials that are solid wastes when used as fuels or ingredients in combustion units.**

\* \* \* \* \*

(c) The Regional Administrator may grant a non-waste determination that a non-hazardous secondary material that is used as a fuel, which is not managed within the control of the generator, is not discarded and is not a solid waste when combusted. This responsibility may be retained by the Assistant Administrator for the Office of Land and Emergency Management if

combustors are located in multiple EPA Regions and the petitioner requests that the Assistant Administrator process the non-waste determination petition. If multiple combustion units are located in one EPA Region, the application must be submitted to the Regional Administrator for that Region. The criteria and process for making such non-waste determinations includes the following:

(1) Submittal of an application to the Regional Administrator for the EPA Region where the facility or facilities are located or the Assistant Administrator for the Office of Land and Emergency Management for a determination that the non-hazardous secondary material, even though it has been transferred to a third party, has not been discarded and is indistinguishable in all relevant aspects from a fuel product. The determination will be based on whether the non-hazardous secondary material that has been discarded is a legitimate fuel as specified in paragraph (d)(1) of this section and on the following criteria:

\* \* \* \* \*

(2) The Regional Administrator or Assistant Administrator for the Office of Land and Emergency Management will evaluate the application pursuant to the following procedures:

\* \* \* \* \*

(ii) The Regional Administrator or Assistant Administrator for the Office of Land and Emergency Management will evaluate the application and issue a draft notice tentatively granting or denying the application. Notification of this tentative decision will be published in a newspaper advertisement or radio broadcast in the locality where the facility combusting the non-hazardous secondary material is located, and be made available on the EPA's website.

(iii) The Regional Administrator or the Assistant Administrator for the Office of Land and Emergency Management will accept public comments on the tentative decision for 30 days, and

may also hold a public hearing upon request or at his/her discretion. The Regional Administrator or the Assistant Administrator for the Office of Land and Emergency Management will issue a final decision after receipt of comments and after a hearing (if any). If a determination is made that the non-hazardous secondary material is a non-waste fuel, it will be retroactive and apply on the date the petition was submitted.

(iv) If a change occurs that affects how a non-hazardous secondary material meets the relevant criteria contained in this paragraph (c) after a formal non-waste determination has been granted, the applicant must re-apply to the Regional Administrator or the Assistant Administrator for the Office of Land and Emergency Management for a formal determination that the non-hazardous secondary material continues to meet the relevant criteria and, thus, is not a solid waste.

\* \* \* \* \*

## **PART 310—REIMBURSEMENT TO LOCAL GOVERNMENTS FOR EMERGENCY RESPONSE TO HAZARDOUS SUBSTANCE RELEASES**

11. The authority citation for part 310 continues to read as follows:

Authority: 42 U.S.C. 9611(c)(11), 9623.

12. Amend § 310.15 by revising paragraph (d) to read as follows:

### **§ 310.15 How do I apply for reimbursement?**

\* \* \* \* \*

(d) Mail your completed application and supporting data to the LGR Project Officer, (5401A), Office of Emergency Management, Office of Land and Emergency Management, Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460.

## **PART 761—POLYCHLORINATED BIPHENYLS (PCBs) MANUFACTURING, PROCESSING, DISTRIBUTION IN COMMERCE, AND USE PROHIBITIONS**

13. The authority citation for part 761 continues to read as follows:

Authority: 15 U.S.C. 2605, 2607, 2611, 2614, and 2616.

14. Amend § 761.60 by revising paragraph (i)(1) to read as follows:

**§ 761.60 Disposal requirements.**

\* \* \* \* \*

(i)\* \* \* (1) The officials designated in paragraph (e) of this section and § 761.70(a) and (b) to receive requests for approval of PCB disposal activities are the primary approval authorities for these activities. Notwithstanding, EPA may, at its discretion, assign the authority to review and approve any aspect of a disposal system to the Office of Land and Emergency Management or to a Regional Administrator.

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